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Re: United States, ex rel. Silbersher v. Janssen Biotech, Inc., et al.
Civil Action No. 19-cv-12107-MEF-SDA

Counsel:

The undersigned Special Master (ECF No. 331) has received and reviewed the parties' several submissions detailing the parties' dispute concerning the depositions of Relator's expert witnesses (ECF Nos. 425, 429, 430) as well as the series of email communications that followed on March 14, 18 and 19. The crux of this dispute is whether Defendants should be permitted to proceed with these depositions at this time (i.e., by April 26) and, if so, whether Defendants should be precluded from taking a second deposition of Relator's experts after service of any rebuttal reports served by those experts.

With respect to the former question, there seems to be no genuine dispute that Defendants have the right to proceed to conduct the depositions of Relator's experts, as they have sought to do by virtue of the notices previously served, at the present time. Accordingly, no later than close of business on Friday, March 21, 2025, Relator is directed to provide a schedule of available dates to complete the depositions of his expert witnesses by April 26, 2025.

With respect to the latter question, the Special Master concludes that it is premature to make any determination concerning a second deposition of any of Relator's expert witnesses. Typically, witnesses should only be deposed once to avoid undue burden, expense and delay. However, in certain circumstances good cause may exist to permit a second deposition. While the Court's decision in the Mylan case cited by the parties is instructive in this regard, no application for multiple depositions has been submitted for consideration and the Special Master declines to impose any prospective determination on the subject. **It is So Ordered.**

s/ Douglas E. Arpert

Hon. Douglas E. Arpert (Ret.)

CC: All Counsel of Record (via ECF)